



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1244]

Certain Batteries and Products Containing Same; Notice of a Commission Final Determination of Violation of Section 337; Issuance of a General Exclusion Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission has issued a general exclusion order (“GEO”) barring entry of certain batteries and products containing same that infringe the patents asserted in this investigation. The Commission has terminated this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 5, 2021, under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“Section 337”), based on a complaint filed by One World Technologies, Inc. (“One World”) and Techtronic Power Tools Technology Ltd. (“TTT”) (collectively, “Complainants”). 86 FR 8379-80 (Feb. 5, 2021). The complaint, as supplemented, alleges a violation of Section 337 based upon the importation into the United States, the sale for importation, or the sale within the United States after importation of certain batteries and products containing same by reason of

infringement of the sole claims of U.S. Patent Nos. D579,868 (“the ’868 patent”); D580,353 (“the ’353 patent”); and D593,944 (“the ’944 patent”). *Id.* at 8379. The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation (“NOI”) names thirteen (13) respondents: Darui Development Limited (“Darui Development”); Dongguan Xinjitong Electronic Technology Co., Ltd. (“Dongguan Electronic”); Shenzhen Laipaili Electronics Co., Ltd.; Shenzhen MingYang Creation Electronic Co., Ltd.; Shenzhen Rich Hao Yuan Energy Technology Co., Ltd. (“Shenzhen Rich Hao”); Shenzhen Runsensheng Trading Co., Ltd.; Shenzhen Saen Trading Co., Ltd. (“Shenzhen Saen”); Shenzhen Shengruixiang E-Commerce Co., Ltd.; Shenzhen Uni-Sun Electronics Co., Ltd.; and Shenzhen Vmartego Electronic Commerce Co., Ltd. (collectively, the “Defaulted Respondents”); Shenzhen Liancheng Weiye Industrial Co., Ltd.; Shenzhen Ollop Technology Co. Ltd.; and Shenzhen Tuo Yu Technology Co., Ltd. *Id.* The Office of Unfair Import Investigations (“OUII”) is participating in this investigation. *Id.*

On May 17, 2021, Commission terminated the investigation based upon the withdrawal of the complaint with respect to respondents Shenzhen Liancheng Weiye Industrial Co., Ltd., Shenzhen Ollop Technology Co. Ltd., and Shenzhen Tuo Yu Technology Co., Ltd., after Complainants were unable to serve these respondents with copies of the Complaint and NOI. Order No. 7 (Apr. 21, 2021), *unreviewed by* Notice (May 17, 2021).

On April 20, 2021, Complainants filed a motion for an order to show cause why the remaining ten (10) named respondents (*i.e.*, the Defaulted Respondents) should not be found in default after failing to respond to the Complaint and NOI, which had been duly served upon them. On May 4, 2021, the motion was granted and an order to show cause was issued. Order No. 8 (May 4, 2021). On June 3, 2021, after they failed to respond to the order to show cause, ALJ issued an ID finding all ten Defaulted Respondents to be in default. Order No. 9 (June 3, 2021), *unreviewed by* Notice (June 23, 2021).

On June 21, 2021, Complainants moved for a summary determination of violation of

Section 337 by the Defaulted Respondents and for a recommended determination recommending entry of a GEO and a bond at the rate of 100 percent during the Presidential review period. Complainants did not request issuance of any cease and desist orders.

On July 16, 2021, OUII filed a response to Complainants' motion supporting a finding of summary determination against only four (4) of the Defaulted Respondents: Darui Development, Dongguan Electronic, Shenzhen Rich Hao, and Shenzhen Saen. Specifically, OUII argued Complainants did not sufficiently connect the importation, sale, or sale after importation of certain of the Accused Products to the Defaulted Respondents. Otherwise, OUII stated it generally supports a finding that Complainants have satisfied the economic prong of the domestic industry requirement under Section 337(a)(3)(A) and (B) (19 U.S.C. 1337(a)(3)(A), (B)) and also supports Complainants' remedy requests.

On March 25, 2022, the presiding administrative law judge ("ALJ") issued an initial determination (Order No. 15) granting in part and denying in part Complainants' motion for summary determination. The ID finds that Complainants have shown by reliable, probative, and substantial evidence that a violation of Section 337 has occurred with respect to the Asserted Patents as to the following four Defaulted Respondents: Darui Development, Dongguan Electronic, Shenzhen Rich Hao, and Shenzhen Saen. The ID finds that no violation has been established as to any other respondent. The ALJ's recommended determination on remedy and bonding ("RD") recommends issuance of a GEO with respect to the asserted patents. The RD does not recommend issuance of any cease and desist order.

On April 6, 2022, OUII petitioned for review of certain aspects of the subject ID. No other petitions or responses to petitions were filed.

On May 11, 2022, the Commission determined to review the subject ID in part. *See* 87 FR 29879-80 (May 17, 2022). Specifically, the Commission determined to review the ID's finding regarding the economic prong of the domestic industry requirement and requested briefing. *Id.* at 29880. In addition, the Commission determined to review in part the ID for the

limited purpose of making certain corrections in the ID. *Id.* The Commission also requested written submissions on remedy, the public interest, and bonding. *Id.*

On May 25, 2022, Complainants and OUII filed their opening written submissions on the issue under review and on remedy, the public interest, and bonding. On June 1, 2022, OUII filed a reply remedy submission. No other submissions were received by the Commission.

Having reviewed the submissions filed in response to the Commission notice, *see id.*, and the evidentiary record, the Commission has determined to affirm the ID's finding of a violation of Section 337 in this investigation. The Commission has also determined that the appropriate form of relief in this investigation is a GEO prohibiting the unlicensed importation of certain batteries and products containing same that infringe the '868 patent, the '353 patent, and the '944 patent.

The Commission has further determined that the public interest factors enumerated in Subsection (d)(1) (19 U.S.C. 1337(d)(1)) do not preclude issuance of the above-referenced remedial order. Finally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. 1337(j)). The investigation is terminated.

The Commission's order and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the order.

The Commission vote for this determination took place on July 25, 2022.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: July 25, 2022.

Katherine M. Hiner,
Acting Secretary to the Commission.

[FR Doc. 2022-16262 Filed: 7/28/2022 8:45 am; Publication Date: 7/29/2022]